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3 **UNITED STATES DISTRICT COURT**
4 **EASTERN DISTRICT OF NORTH CAROLINA**
5 **SOUTHERN DIVISION**

6 WATSON MUSIC GROUP, LLC.
7 D/B/A QUADRASOUND MUSIC,

8 Plaintiff,

9 v.

10
11 WILMINGTON-CAPE FEAR HOME
12 BUILDERS ASSOCIATION,

13 Defendant.
14

Case No:

COMPLAINT

DEMAND FOR JURY TRIAL

15 **COMPLAINT**

16 Plaintiff WATSON MUSIC GROUP, LLC. D/B/A QUADRASOUND MUSIC
17 (“*Plaintiff*”), by and through its undersigned counsel, for its Complaint against
18 defendant Wilmington-Cape Fear Home Builders Association (“*Defendant*”) states
19 and alleges as follows:

20 **INTRODUCTION**

- 21 1. This action seeks to recover damages for copyright infringement.
- 22 2. Plaintiff herein owns the right to certain musical works which Plaintiff
23 licenses for commercial use.
- 24 3. Defendant owns and operates a social media account on
25 www.facebook.com with the name “@wcfhba” (the “*Account*”).
- 26 4. Defendant, without permission or authorization from Plaintiff actively
27 copied, stored, and/or made available Plaintiff's copyrighted material on the Account
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1 and engaged in this misconduct knowingly and in violation of the United States
2 copyright laws.

3 **PARTIES**

4 5. Plaintiff Watson Music Group, LLC. d/b/a Quadrasound Music is a
5 Florida limited liability company with a principal place of business at 805 SE 8th
6 Street, Deerfield Beach, Florida 33441.

7 6. Upon information and belief, defendant Wilmington-Cape Fear Home
8 Builders Association, is a North Carolina organization with a principal place of
9 business at 3801 Wrightsville Avenue, Suite 5, Wilmington in New Hanover
10 County, North Carolina.

11 **JURISDICTION AND VENUE**

12 7. This Court has subject matter jurisdiction over the federal copyright
13 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

14 8. This Court has personal jurisdiction over Defendant because it
15 maintains its principal place of business in North Carolina.

16 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Wilmington-
17 Cape Fear Home Builders Association does business in this Judicial District and/or
18 because a substantial part of the events or omissions giving rise to the claim occurred
19 in this Judicial District.

20 **FACTS COMMON TO ALL CLAIMS**

21 **A. Plaintiff's Copyright Ownership**

22 10. In 1996, Michael Phillips and Jay McGowan authored a musical work
23 titled "C'mon N' Ride It (The Train)" (the "*Musical Work*").

24 11. The Musical Work was registered with the USCO on March 15, 1999,
25 under Registration No. PA-993-987

26 12. Plaintiff acquired all rights to the Musical Work by way of written
27 agreement on March 15, 1999.

1 **B. Defendant's Infringing Activity**

2 13. On or about April 8, 2016, Defendant posted a discernable excerpt of
3 the Musical Work on the Account as part of a social media post at URL:
4 <https://www.facebook.com/watch/?v=1317509134942528>. A copy of a screengrab
5 of the Account including the post where the Musical Work was made available is
6 attached hereto as Exhibit 1.

7 14. Plaintiff first observed and actually discovered the Infringement on
8 March 13, 2024.

9 15. The Account is associated with Defendant.

10 16. Defendant has exclusive access to post content on Defendant's Account.

11 17. Defendant uses its Account to promote both its business and brand
12 whereby Defendant financially benefits.

13 18. Upon information and belief, the Musical Work was copied, stored,
14 distributed without license or permission by Defendant on the Account to be
15 performed publicly by means of a digital audio transmission, thereby infringing on
16 Plaintiff's exclusive rights in the copyrighted work (hereinafter the "*Infringement*").

17 19. The Infringement is an exact copy of a discernable portion of Plaintiff's
18 Musical Work that was copied and made available by Defendant for public
19 performance on the Account.

20 20. Upon information and belief, Defendant takes an active and pervasive
21 role in the content posted on its Account, including, but not limited to copying,
22 posting, selecting, the material made available via the Account.

23 21. Upon information and belief, the Musical Work was willfully and
24 volitionally posted to the Account by Defendant.

25 22. Upon information and belief, Defendant engaged in the Infringement
26 knowingly and in violation of applicable United States Copyright Laws.

27 23. Upon information and belief, Defendant had complete control over and
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1 actively reviewed and monitored the content posted on the Account.

2 24. Upon information and belief, Defendant has the legal right and ability
3 to control and limit the infringing activities on its Account and exercised and/or had
4 the right and ability to exercise such right.

5 25. Upon information and belief, Defendant monitors the content on its
6 Account.

7 26. Upon information and belief, Defendant has received a financial benefit
8 directly attributable to the Infringement.

9 27. Upon information and belief, the Infringement increased traffic to the
10 Account and, in turn, caused Defendant to realize an increase in the applicable
11 revenues generated by its services.

12 28. Upon information and belief, a large number of people have listened to
13 the unlawful copy of the Musical Work on the Account.

14 29. Upon information and belief, Defendant at all times had the ability to
15 stop the reproduction and rendition of Plaintiff's copyrighted material.

16 30. Defendant's use of the Musical Work harmed the actual market for the
17 Musical Work.

18 31. Defendant's use of the Musical Work, if widespread, would harm
19 Plaintiff's potential market for the Musical Work.

20 32. On March 29, 2024, Plaintiff, via counsel, served a letter seeking to
21 address the complaints contained herein concerning Defendant's infringement of
22 Plaintiff's rights-protected work.

23 33. On May 15, 2024, Plaintiff, via counsel, served a second letter seeking
24 to address the complaints contained herein concerning Defendant's infringement of
25 Plaintiff's rights-protected work.

26 34. Despite Plaintiff's efforts and willingness to address Defendant's
27 infringing activity, Defendant failed to respond, and Plaintiff was forced to seek
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1 judicial intervention for Defendant's infringing activity.

2 35. Further, despite Plaintiff's notification to Defendant concerning its
3 infringing activity, Defendant continues to infringe on Plaintiff's work thereby
4 establishing the willful nature of its conduct.

5 36. As a result of Defendant's misconduct, Plaintiff has been substantially
6 harmed.

7 **FIRST COUNT**

8 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

9 37. Plaintiff repeats and incorporates by reference the allegations contained
10 in the preceding paragraphs, as though set forth in full herein.

11 38. The Musical Work is an original, creative work in which Plaintiff owns
12 valid copyright properly registered with the United States Copyright Office.

13 39. Plaintiff has not licensed Defendant the right to use the Musical Work
14 nor has Plaintiff assigned any of its exclusive rights in the copyright to Defendant.

15 40. Without permission or authorization from Plaintiff and in willful
16 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
17 illegally copied, stored, reproduced, distributed and publicly performed by means of
18 a digital audio transmission works owned by Plaintiff thereby violating one of
19 Plaintiff's exclusive rights in its copyrights.

20 41. Plaintiff is informed and believes and thereon alleges that the
21 Defendant willfully infringed upon Plaintiff's copyrighted Musical Work in violation
22 of Title 17 of the U.S. Code, in that they used for commercial benefit the original
23 and unique Musical Work of the Plaintiff without Plaintiff's consent or authority.

24 42. As a result of Defendant's violations of Title 17 of the U.S. Code,
25 Plaintiff is entitled to an award of actual damages and disgorgement of all of
26 Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504
27 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for
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1 statutory damages against Defendant for each infringement pursuant to 17 U.S.C. §
2 504(c).

3 43. As a result of the Defendant's violations of Title 17 of the U.S. Code,
4 the court in its discretion may allow the recovery of full costs as well as reasonable
5 attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

6 44. As a result of Defendant's violations of Title 17 of the U.S. Code,
7 Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his
8 copyright pursuant to 17 U.S.C. § 502.

9 **JURY DEMAND**

10 45. Plaintiff hereby demands a trial of this action by jury.

11 **PRAYER FOR RELIEF**

12 **WHEREFORE**, Plaintiff respectfully requests judgment as follows:

13 That the Court enters a judgment finding that Defendant has infringed on
14 Plaintiff's rights to the Musical Work in violation of 17 U.S.C. §501 *et seq.* and
15 award damages and monetary relief as follows:

- 16 a. finding that Defendant infringed upon Plaintiff's copyright
17 interest in the Musical Work by copying without a license or
18 consent;
- 19 b. for an award of actual damages and disgorgement of all of
20 Defendant's profits attributable to the infringement as provided
21 by 17 U.S.C. § 504 in an amount to be proven or, in the
22 alternative, at Plaintiff's election, an award for statutory damages
23 against Defendant for each infringement pursuant to 17 U.S.C. §
24 504(c), whichever is larger;
- 25 c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant
26 from any infringing use of any of Plaintiff's works;
- 27 d. for costs of litigation and reasonable attorney's fees against
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Defendant pursuant to 17 U.S.C. § 505

- e. for pre judgment interest as permitted by law; and
- f. for any other relief the Court deems just and proper.

DATED: December 26, 2024

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